

COUNTY OF OCONEE
Procurement Office
415 South Pine Street, Walhalla, SC 29691
Phone: (864) 638-4141 Fax: (864) 638-4142

REQUEST FOR QUOTE

QUOTE NUMBER: RFQ 21-102Q DATE: March 16, 2022

PROCUREMENT FOR: Pre-Blast Survey for Oconee County Rock Quarry

DEADLINE TO SUBMIT QUOTE: Friday March 25, 2022 @ 2:00pm

SUBMIT QUOTE TO: QUOTES MAY BE SUBMITTED
VIA EMAIL, FAX OR MAILED TO:

Email: tpopham@oconeesc.com
Fax: 864-638-4142
Mail: Oconee County Procurement
Attn: Tronda C. Popham
415 South Pine St
Walhalla, SC 29691
RFQ# 21-102Q

This is a request for quote; therefore, there will NOT be a public opening.

DIRECT ALL INQUIRES TO: Tronda C. Popham, Procurement Director
Phone: (864) 638-4141
Fax: (864) 638-4142
E-mail: tpopham@oconeesc.com

The County assumes no responsibility for delivery of quotes. It is the responsibility of the vendor to insure their quote was received.

NOTICE TO BIDDERS: Each bidder shall fully acquaint himself with conditions relating to the scope and restrictions attending the execution of the work under the conditions of this quote. The failure or omission of a bidder to acquaint himself with existing conditions shall in no way relieve him of any obligation with respect to this quote or to the contract.

Questions may be submitted by email to tpopham@oconeesc.com. Deadline for questions is Monday, March 21, 2022 @ 2:00pm. Questions received prior to the deadline for questions will be answered in an Addendum, which will be posted on <https://oconeesc.com/procurement-home>.

If downloading this solicitation from our website; it is the responsibility of the bidder to call our office at (864) 638-4141 to be registered as a potential bidder to receive any subsequent addenda.

Oconee County complies with all South Carolina and Federal laws that prohibit discrimination on the basis of race, sex, age, religion, color, national origin and disability.

INSTRUCTIONS AND CONDITIONS

1. **GENERAL:** By submission of a quote, the vendor is guaranteeing that all goods and services meet the requirements of the Request for Quote (hereafter referred to as RFQ) during the contract period. Unless otherwise stated, it is understood and agreed that all items shall be new and in first class condition.
2. **VENDOR'S RESPONSIBILITY:** Each vendor shall fully acquaint himself with conditions relating to the scope and restrictions attending the execution of the work under the conditions of this RFQ. It is expected that this will sometimes require on-site observation. The failure or omission of a vendor to acquaint himself with existing conditions shall in no way relieve him of any obligation with respect to this RFQ or to the contract.
3. **PAYMENT TERMS: Equipment, Goods, and Services –** Payment shall be made within 30 days after receipt of equipment, goods and services that are complete and meet all specifications of the RFQ. The County will not make "pre-payments" for any goods or services and partial payments shall be at the discretion of the Procurement Director. Electronic Payments - Oconee County may choose to utilize checks, Procurement Cards (credit card issued by Visa), E-payables or other types of electronic payment methods approved by the Oconee County Administrative Services department. The successful vendor agrees to accept electronic payment by Oconee County at no extra charge, should the County decide to use this method of payment.
4. **COMPETITION:** This solicitation is intended to promote competition. If any language, specifications, terms and conditions, or any combination thereof restricts or limits the requirements in this solicitation to a single source, it shall be the responsibility of the interested vendor to notify the Procurement Office in writing within seven (7) calendar days after receipt of RFQ. The solicitation may or may not be changed, but a review of such notification will be made prior to the award.
5. **DEVIATIONS FROM SPECIFICATIONS:** Any deviation from specifications indicated herein should be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications. Deviations should be explained in detail on separate attached sheet(s). The listing of deviations, if any, is required but will not be construed as waiving any requirements of the specifications. Deviations found in the evaluation of the quote and not listed may be cause for rejection. Vendors offering substitute or equal items should provide information sufficient enough to determine acceptability of item offered.
6. **"OR APPROVED EQUAL":** Certain processes, types of equipment or kinds of material are described in the specifications and/or on the drawings by means of trade/brand names and catalog numbers. In each instance where this occurs, it is understood and inferred that such description is followed by the words "or approved equal". Such method of description is intended merely as a means of establishing a standard of comparability. However, the County reserves the right to select the items which, in the judgment of the County, are best suited to the needs of the County based on price, quality, service, availability and other relative factors. Vendors should indicate brand name, model, model number, size, type, weight, color, etc., of the item quoted, if not exactly the same as the item specified. Vendor's stock number or catalog number is not sufficient to meet this requirement. If any vendor desires to furnish an item different from the specifications, vendor shall submit along with the quote, the information, data, pictures, designs, cuts, etc., of the item they plan to furnish so as to enable the County to compare the item specified; and, such item shall be given due consideration. The County reserves the right to insist upon, and receive items as specified if the submitted items do not meet the County's standards for acceptance.
7. **UNIT PRICES:** When applicable, unit prices will govern over extended prices unless otherwise stated in this RFQ. All quotes shall remain effective for a minimum of 60 days, unless otherwise stated.
8. **INTERPRETATIONS OR ADDENDA:** No oral changes shall be made to any vendor regarding the RFQ or any part thereof. Every request for an interpretation shall be made in writing via email or fax to the Buyer as indicated in the RFQ. Any changes to the specifications shall be in the form of a written Addendum to the RFQ. The Addendum will be posted on the Procurement web site at www.oconeesc.com/procurement. The Addendum will also be emailed to all vendors who have contacted the Procurement Office and asked to be placed on the Bidder's List. It shall be the vendor's responsibility to make inquiries as to the Addenda issued. All such Addenda shall become part of the RFQ and all vendors shall be bound by such Addenda,

whether or not received by the vendors. REJECTION OR ACCEPTANCE OF QUOTES; WAIVER OF TECHNICALITIES AND IRREGULARITIES: The County shall reserve the unqualified right to reject any and all quotes or accept such quotes, as appears in the County's own best interest. The County shall reserve the unqualified right to waive technicalities or irregularities of any kind in solicitations made under this Article. In all cases, the County shall be the sole judge as to whether a vendor's quote has or has not satisfactorily met the requirements to solicitations made under this Article.

9. **AWARD:** The contract shall be awarded to the lowest responsible and responsive vendor(s) whose quote meets the requirements and criteria set forth in the RFQ. Oconee County reserves the right to waive any technicalities and informalities, and accept or reject any quote as deemed in the best interest of the County. The County will be sole judge as to whether bids submitted meet all requirements contained in this solicitation. When so stated in the RFQ, the award can be made to one or multiple vendors, whichever is in the best interest of the County, and quantities may vary, depending upon availability of funds, unless otherwise stated.
10. **CONTRACT:** This RFQ and submitted documents, when properly accepted by Oconee County along with a written purchase order, shall constitute a contract equally binding between the successful offeror and Oconee County. No different or additional terms will become a part of this contract, except through a Change Order, when applicable.
11. **ASSIGNMENT:** Once a contract has been executed, the Contractor shall not assign, sublet, or transfer the contract without the written consent of the Procurement Director.
12. **CHANGE ORDERS:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders to the contract will be made in writing by the Procurement Director.
13. **INDEMNIFICATION:** The Contractor agrees to indemnify and hold harmless the County of Oconee and all County officers, agents and employees from claims, suits, actions, damages and costs of every name and description, arising out of or resulting from the use of any materials furnished by the Contractor, provided that such liability is not attributable to negligence on the part of the County or failure of the County to use the materials in the manner outlined by the Contractor in descriptive literature or specifications submitted with the Contractor's quote.
14. **FORCE MAJEURE:** The Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without fault or negligence of the contractor. Such causes may include, but are not restricted to acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the contractor and subcontractor, and without the fault or negligence of either of them, the contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the contractor to meet the required delivery schedule.
15. **S.C. LAW CLAUSE:** Upon award of a contract under this RFQ, the person, partnership, association or corporation to whom the award is made must comply with the laws of South Carolina which require such person or entity to be authorized and/or licensed to do business within the State. Notwithstanding the fact that applicable statutes may exempt or exclude the Contractor from requirements that it be authorized and/or licensed to do business in this State, by submission of this signed RFQ, the Contractor agrees to subject himself to the jurisdiction and process of the courts of the State of South Carolina as to all matters and disputes arising or to arise under the contract and the performance thereof, including any questions as to the liability for taxes, licenses, or fees levied by the State.

16. **6% SC SALES TAX:** Oconee County is subject to South Carolina Sales Tax on all purchases of goods and services, except for the mining operation of the Oconee County Rock Quarry, and the recycling operation of the Oconee County Solid Waste Department. Therefore, 6% sales tax must be added to all orders, except for the mining operation of the Rock Quarry. Lump sum bids however, shall include sales tax in quote unless otherwise noted. By submission of a signed quote, you are certifying, under penalties of perjury, that you comply with Title 12, Chapter 36, Article 1 of the SC Code of Laws 1976, as amended, relating to payment of any applicable taxes. This will certify to the County your compliance.
17. **DRUG-FREE WORKPLACE:** By submittal of this RFQ, you are certifying that you will comply with Title 44, code of Laws of South Carolina, 1976, Section 44-107-30.
18. **ILLEGAL IMMIGRATION REFORM ACT – 2008 - Title 8, Chapter 14, Act. No. 280:** By submittal of this RFQ, you are certifying that you are in compliance with Title 8, Chapter 14, or that this law is inapplicable to you and your subcontractors. An overview of this law is available at www.procurementlaw.sc.gov/immigration. This is required of all contractors and subcontractors as of January 1, 2010.
19. **LOCAL PREFERENCE:** The lowest local responsible and responsive vendor who is within two percent (2%) of the lowest non-local responsible and responsive vendor, may match the quote submitted by the non-local responsible and responsive bidder and thereby be awarded the contract. The local preference as set forth in this section shall only be applied to responses to solicitations of written quotes in excess of ten thousand dollars (\$10,000.00). The local preference as set forth in this section shall only be given to local responsible and responsive vendors who have a physical business address located and operating within Oconee County and who have met all other requirements of the solicitations of written quotes including, without limitation, payment of all duly assessed state and local taxes. If state or federal guidelines prohibit or otherwise limit local preference, then the County shall not use local preference in awarding the contract. If there are multiple responsible and responsive vendors who meet the local preference guidelines as set forth in this section, the County shall use standard procurement practice and procedure to determine the priority of selection. The local preference as set forth in this section does not waive or otherwise abrogate the County's unqualified right to reject any and all quotes or accept such quotes, as appears in the County's own best interest.
20. **INSURANCE:** The successful contractor shall procure, maintain, and provide proof of insurance coverage for injuries to persons and/or property damage as may arise from, or in conjunction with, the work performed on behalf of the County by the contractor, his agents, representatives, employees or subcontractors. Proof of coverage as contained herein shall be submitted fifteen (15) days prior to the commencement of work and such coverage shall be maintained by the contractor for the duration of the contract period; for occurrence policies.
 - A. **Commercial General Liability:** Coverage shall be as broad as: Comprehensive General Liability endorsed to include Broad Form, Commercial General Liability Form including Products/Completed Operations.

Minimum Limits:
\$500,000 General Aggregate Limit
\$500,000 Products & Completed Operations
\$500,000 Personal & Advertising Injury
\$500,000 Each Occurrence Limit
\$50,000 Fire Damage Limit
\$5,000 Medical Expense Limit

- B. **Business Commercial Automobile Liability:** Coverage sufficient to cover all vehicles owned, used, or hired by the contractor, his agents, representatives, employees or subcontractors.

Minimum Limits:

\$500,000 Combined Single Limit

\$500,000 Each Occurrence Limit

\$5,000 Medical Expense Limit

- C. **Workers' Compensation:** Limits as required by the Workers' Compensation Act of SC, to include state's endorsement for businesses outside of SC. Employer's Liability, \$1,000,000.

- D. **Professional Liability:**

Minimum limits are \$1,000,000 per occurrence.

Coverage Provisions

1. All deductibles or self-insured retention shall appear on the certificate(s).
2. Oconee County, its' officers/ officials, employees, agents and volunteers shall be added as "additional insured" as their interests may appear. This provision does not apply to Professional Liability or Workers' Compensation/Employers' Liability.
3. The contractor's insurance shall be primary over any applicable insurance or self-insurance maintained by the County.
4. Shall provide 30 days written notice to the County before any cancellation, suspension, or void of coverage in whole or part, where such provision is reasonable.
5. All coverage for subcontractors of the contractor shall be subject to all of the requirements stated herein.
6. All deductibles or self-insured retention shall appear on the certificate(s) and shall be subject to approval by the County. At the option of the County, either; the insurer shall reduce or eliminate such deductible or self-insured retention; or the contractor shall be required to procure a bond guaranteeing payment of losses and related claims expenses.
7. Failure to comply with any reporting provisions of the policy(s) shall not affect coverage provided the County, its officers/officials, agents, employees and volunteers.
8. The insurer shall agree to waive all rights of subrogation against the County, its' officers/officials, agents, employees or volunteers for any act, omission or condition of premises which the parties may be held liable by reason of negligence.
9. The contractor shall furnish the County certificates of insurance including endorsements affecting coverage. The certificates are to be signed by a person authorized by the insurance company(s) to bind coverage on its behalf, if executed by a broker, notarized copy of authorization to bind, or certify coverage must be attached.
10. All insurance shall be placed with insurers who are lawfully authorized to do business in the state of SC, and who maintain an A.M. Best rating of no less than an A:VII. If A.M. Best rating is less than A:VII, approval must be received from the County's Risk Manager.

MINIMUM SPECIFICATIONS

Oconee County is seeking competitive quotes, from qualified firms to provide Pre-Blast Surveys for inhabited / inhabitable structures within the one-half mile arc of any blasting activities.

Background

The Oconee County Quarry is a granite quarry owned and operated by Oconee County and has been in operation at the present location, 686 Rock Crusher Road, Walhalla, SC 29691, for approximately forty-six (46) years. Mine property consists of approximately one hundred thirty-six (136) acres. The Quarry has blasted an average of 644,000 tons per year for the past five (5) years; with an expected increase over the next five (5) years. Drilling and blasting occurs approximately four (4) times each month.

The County entered into a land purchase agreement with a neighboring landowner to purchase approximately 50 acres over a 10-year period. Oconee County has purchased 30 acres, to date. The Rock Quarry has been working with an engineering firm to finalize a major modification to our current permit with DHEC that includes a phased plan for operations and reclamation. The Oconee County Quarry will be finalizing the permit modifications soon and are planning to blast in the area near the 50-acre expansion. Before DHEC will allow the Rock Quarry to blast in this area, The County is required to submit a pre-blast survey. (See Attachment 1: DHEC Draft Permit, Page 3, Part II: Mine Operations, Blasting, 2nd Paragraph).

SCOPE OF WORK

The Pre-Blast Survey shall be performed in accordance with SCDHEC Regulation 89-150, See Attachment 2. Regulation 89-150 can also be found at the following link, <https://scdhec.gov/about-dhec/laws-regulations-regulatory-updates/dhec-laws-regulations/dhec-laws-regulations-land>

The County along with the Project Engineer have identified approximately 88 structures within the ½ mile buffer that may require a Pre-Blast Survey. See attached draft buffer map. Once a Pre-Blast Survey Contractor / Firm has been chosen, the County will provide SCDHEC with a list of homeowners. After receipt of list SCDHEC will issue Notice of Homeowner's Rights of Inspection. SCDHEC will provide the County with a list of homeowners which responded. This list will be provided to the awarded contractor / firm.

The successful contractor / firm will be required to:

1. Make multiple attempts to contact homeowners, one of which shall be a certified mailing with return receipt requested. If the homeowner does not respond, that would constitute a refusal for the property inspection. All methods of contact shall be documented.
2. Schedule the inspection with the home / land owner.
3. Perform the inspections. Any defects observed shall be documented thoroughly, to include photos.
4. Submit documentation concerning each structure inspected to SCDHEC, the owner of the structure, and the Oconee County Quarry.
5. Any other duties outlined in the Regulation 89-150.

GENERAL

PROJECT SCHEDULE: Contractor shall submit their proposed project schedule with quote submittal, to include start time and completion time. Contractor will coordinate work schedule with Rock Quarry management.

The quantities noted are estimated and may be more or less once the response list is received from SCDHEC. The County shall be invoiced for actual number of structures inspected / Pre-Blast Survey's performed.

COUNTY OF OCONEE
Procurement Office, 415 S. Pine Street, Walhalla, SC 29691
Phone: (864) 638-4141 / Fax: (864) 638-4142

QUOTE FORM

QUOTE NUMBER: RFQ 21-102Q DATE: March 16, 2022

PROCUREMENT FOR: Pre-Blast Survey for Oconee County Rock Quarry

DEADLINE TO SUBMIT QUOTE: Friday, March 25, 2022 @ 2:00pm

SUBMIT QUOTE TO: QUOTES MAY BE SUBMITTED
VIA EMAIL, FAX OR MAILED TO:

Email: tpopham@oconeesc.com
Fax: 864-638-4142
Mail: Oconee County Procurement
Attn: Tronda C. Popham
415 South Pine St
Walhalla, SC 29691
RFQ# 21-102Q

Estimated number of Surveys	Cost per Survey
88 (Eighty-Eight)	\$
Estimated Grand Total	\$

FIRM NAME: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

PHONE: _____ EMAIL: _____

SIGNATURE: _____ Title: _____

Print Signature: _____ Date: _____

By signing this Bid Form, the Bidder acknowledges that he/she has read this document and understands the provisions, agrees to be bound by its terms and conditions, will adhere to scheduling requirements stated herein and is capable of providing all required services necessary for this project.

SUBCONTRACTOR INFORMATION (if applicable)

Name & Address	Description of work to be performed	Dollar Value of Subcontractor's Work
1.		\$
2.		\$
3.		\$
4.		\$
5.		\$
6.		\$

CERTIFICATE OF FAMILIARITY AND NON-COLLUSION

The undersigned, having fully familiarized himself with the information contained within this entire solicitation and applicable amendments, submits the attached RFQ and other applicable information to the County, which I verify to be true and correct to the best of my knowledge. I certify that this quote is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a quote for the same materials, supplies or equipment, and is in all respects, fair and without collusion or fraud. I agree to abide by all conditions of this RFQ and certify that I am authorized to sign this RFQ. I further certify that this quote is good for a period of sixty (60) days, unless otherwise stated.

Company Name (as registered with the IRS)

Authorized Signature

Correspondence Address

Printed Name

City, State, Zip

Title

Date

Phone #

Fax #

E-mail Address

Mobile Phone #

Remittance Address

City, State, Zip

Phone #

Toll-Free Phone #, if available

Federal Tax ID Number

SC Sales and Use Tax Number



STATE OF SOUTH CAROLINA
 DEPARTMENT OF REVENUE
**NONRESIDENT TAXPAYER
 REGISTRATION AFFIDAVIT
 INCOME TAX WITHHOLDING**

I-312
 (Rev. 7/28/06)
 3323

Mail to: The company or individual you are contracting with.

The undersigned nonresident taxpayer on oath, being first duly sworn, hereby certifies as follows:

1. Name of Nonresident Taxpayer: _____

2. Trade Name, if applicable (Doing Business As):

3. Mailing Address: _____

4. Federal Identification Number: _____

5. _____ Hiring or Contracting with:
 Name: _____

Address: _____

_____ Receiving Rentals or Royalties From:
 Name: _____

Address: _____

_____ Beneficiary of Trusts and Estates:
 Name: _____

Address: _____

6. I hereby certify that the above named nonresident taxpayer is currently registered with (check the appropriate box):

- The South Carolina Secretary of State or
- The South Carolina Department of Revenue

Date of Registration: _____

7. I understand that by this registration, the above named nonresident taxpayer has agreed to be subject to the jurisdiction of the South Carolina Department of Revenue and the courts of South Carolina to determine its South Carolina tax liability, including estimated taxes, together with any related interest and penalties.

8. I understand the South Carolina Department of Revenue may revoke the withholding exemption granted under Code Sections 12-8-540 (rentals), 12-8-550 (temporarily doing business or professional services in South Carolina), and 12-8-570 (distributions to nonresident beneficiary by trusts or estates) at any time it determines that the above named nonresident taxpayer is not cooperating with the Department in the determination of its correct South Carolina tax liability.

The undersigned understands that any false statement contained herein could be punished by fine, imprisonment or both.

Recognizing that I am subject to the criminal penalties under Code Section 12-54-44 (B) (6) (a) (i), I declare that I have examined this affidavit and to the best of my knowledge and belief, it is true, correct and complete.

 Signature of Nonresident Taxpayer (Owner, Partner or Corporate Officer, when relevant) (Seal) _____ Date

If Corporate officer state title: _____

 (Name - Please Print)

33231010



S.C. Department of Health and
Environmental Control

MINE OPERATING PERMIT

PART I:

Oconee County Quarry Oconee County, S.C.

Oconee County has been granted a Mine Operating Permit, Mine Permit Number I-000253, to operate the Oconee County Quarry in accordance with the S.C. Mining Act (S.C. Code Sections 48-20-10 *et seq.*, 1976) and Regulations 89-10 *et seq.* The operator shall conduct this operation as represented in documents submitted to support the issuance of this permit.

DRAFT

JOSEPH M. KOON, MANAGER
MINING AND RECLAMATION SECTION
DIVISION OF MINING AND SOLID WASTE MANAGEMENT

PERMIT NUMBER: I-000253
ORIGINALLY ISSUED: September 4, 1975
MODIFIED: Month ##, Year

In accordance with Section 48-20-60 of the South Carolina Mining Act, this Mine Operating Permit will remain valid unless it terminates as set forth in R.89-270 or is revoked in accordance with Section 48-20-160 and R.89-280. The anticipated mining completion date is shown on the *Schedule for Conservation and Reclamation Practices* in the *Reclamation Plan*.

The approved *Permit Application*, *Reclamation Plan*, and all supplemental information referenced herein, are an integral part of this permit. *Land Entry Agreements and Mine Maps* as identified in Part II and Part IV, respectively, are also a part of this permit.

I-000253

Oconee County

Home Office Address: Oconee County
415 S. Pine Street
Walhalla, S.C. 29691

Local Office Address: Oconee Quarry
686 Rock Crusher Road
Walhalla, S.C. 29691

Address for Official Mail: Same as Local Office Address

Company personnel and title to be the contact for official business and correspondence [South Carolina Department of Health and Environmental Control (DHEC) should be notified in writing immediately of any change in contact, address, telephone or fax numbers]:

Contact's Name
Contact's Title

Telephone: ###-###-####
Email: name@business.com

LOCATION: The mine is located on the Westminster, SC U.S.G.S. 7.5' Topographic Map. The approximate geographic coordinates for the site are:

Latitude: 34.7290

Longitude: -83.0929

DESCRIBE LOCATION: The operation is located in Oconee County, approximately 3.0 mile(s) southwest of Walhalla, S.C. Specifically, the site is located at 686 Rock Crusher Road.

Part II: MINE OPERATIONS

Oconee County, also referred to as the operator, is permitted to mine granite at the Oconee County Quarry. The maximum depth to the pit floor will be 400 feet below ground surface (to an approximate elevation of +500 feet mean sea level) measured from the lowest ground surface elevation. Mining will take place on tracts of land owned by the referenced operator. These tracts of land are identified in the submitted *Land Entry Agreements* (LEAs).

MINE/PIT CHARACTERIZATION:

The granite will be excavated, processed, and stockpiled on site. Ground clearing will be accomplished by heavy equipment (e.g., excavator, backhoe, bulldozer). Removed overburden will be placed in permanent storage areas at locations designated on the mine map. The exposed granite will be drilled, explosives loaded, and blasted to fragment stone into manageable sizes to facilitate loading in haul trucks and crushing by the primary crusher. Stone passing through the primary crusher will be transported to the processing plant by trucks for further processing.

PROCESSING PLANT LOCATED ON MINE SITE:

The processing plant will consist of primary and secondary crushers, screens, conveyors, and loading and hauling machines. Waste screenings and other fines from crushing, washing, and screening the crushed stone will be stockpiled around the plant site or placed in overburden storage areas.

MINE DEWATERING:

Due to groundwater seepage from natural fractures/joints in the host rock, quarry dewatering will be necessary when the pit floor extends below the water table. Additionally, where feasible, stormwater runoff shall be diverted into the pit, collected into the sump, and discharged in the same manner as groundwater. Any accumulation of groundwater and stormwater shall be pumped into a sediment basin prior to discharge. Water discharged from the mine to a receiving stream must be discharged through an outfall regulated by an NPDES permit.

If an operator receives a complaint concerning adverse impacts to neighboring wells, the operator is to notify DHEC's Manager of the Mining and Reclamation Section, Columbia, SC, within 48 hours. After investigation, if DHEC determines dewatering activities at the mine are affecting a drinking water well or water supply well, the operator shall be responsible for repairing, deepening, or re-drilling such wells. Until that permanent water supply is re-established, the operator shall supply the owner with a temporary water supply (e.g., bottled water for drinking, provisions for laundry).

Active pumping and discharge of water shall cease if the dewatering discharge causes flooding conditions to property downstream of the mine site.

BLASTING:

Blasting is permitted at this site. Blasting activities shall be conducted in accordance with R.89-150.

Pursuant to R.89-150A., the operator shall conduct a pre-blast survey on inhabited structures within the one-half mile arc of any blasting within the area added in Mod 19-1, prior to the commencement of any blasting activities. The survey shall be completed by a third-party consultant and a copy of the report sent to DHEC, the operator, and the landowner. Upon receipt, DHEC will then grant permission to begin blasting activities.

Pursuant to R.89-150J., the operator shall report any suspected incident of flyrock outside of the permitted area resulting from blasting operations. Pursuant to R.89-150E., the operator shall report if the peak particle velocity exceeds one (1.0) inch per second at the immediate location of any dwelling not owned by the operator (or where a waiver of damage has been submitted to DHEC). These incidents shall be reported to DHEC within 24 hours of the blast, and a written report shall be submitted to DHEC within five (5) business days.

Pursuant to R.89-150H., the operator shall maintain a minimum distance of 250 feet from contiguous property boundaries when conducting blasting. Additionally, pursuant to R.89-150I., the operator shall maintain a minimum distance as shown on the approved mine map between the nearest point of blasting and any structures

not owned by the operator (at the time of the completed application date) or where a waiver of damage has been submitted to DHEC.

SIGNIFICANT CULTURAL OR HISTORICAL SITES:

No significant cultural or historical sites have been identified. Note Part X: *Additional Terms and Conditions #1* of this Mine Operating Permit.

VISUAL SCREEN:

To appropriately screen the operation from view, the operator shall maintain a minimum 50ft. undisturbed buffer between mining activity and all property lines. The outward-facing slope of overburden storage areas in the north and west (as shown on the mine maps) used as visual screening shall be sloped and vegetated as soon as feasible.

NOISE MONITORING AND CONTROL: The operator shall use Best Management Practices (BMPs) to minimize noise from the mine site. These noise BMPs shall include, at a minimum, proper maintenance of mufflers on equipment (trucks, trackhoes, pumps, etc.) and consideration of special buffering measures if planning to operate equipment during nighttime hours.

OTHER STATE OR FEDERAL PERMITS: The operator must obtain, maintain, and update, as appropriate, all necessary State and Federal permits in order to construct and operate the mine.

LAND ENTRY AGREEMENTS: The operator is required to furnish and maintain up-to-date *Land Entry Agreements* on all lands covered under this permit. Any change in ownership on any portion of land covered by this permit, the operator is responsible for furnishing the appropriate and completed *Land Entry Agreements* (Forms MR-600 or MR-700) to DHEC within 30 days of the change of ownership.

Land Owner(s) as Listed on *Land Entry Agreement(s)*:

Oconee County: TMS #: 190-00-01-028, 190-00-01-045, 190-00-03-033, 190-00-03-052,
190-00-03-053, 190-00-03-058, 190-00-03-059, 190-00-03-062,
190-00-03-063

Carra Orr Life Estate: TMS #: 190-00-03-034

Total acres of the contiguous tract(s) of land for which the permit is granted:

OWNED 104.1ac

LEASED 31.9ac

TOTAL 136.0ac

Part III: PERMITTED LAND

This permit allows the operator to conduct mining operations within the permitted land as defined through the *Land Entry Agreement* submitted as part of the application. Permitted land as defined by Section 48-20-40(18) is "the affected land in addition to (a) lands identified for future mining to become affected land; (b) and undisturbed or buffer area that is or may become adjacent to the affected land." Therefore, this permit grants the operator the right to conduct active mining operations within the specified affected land, delineate land for future mine areas as future reserves, and to establish undisturbed buffer zones to mitigate any adverse effects to the surrounding environment.

AFFECTED LAND: 87.0 acres of land are to be affected by Oconee County under the current mine plan. The affected acres are derived from the operator's response in the *Application for a Mine Operating Permit* and are shown on the approved mine map(s).

FUTURE RESERVES: 12.0 acres are identified as future reserves and are specified on the mine site map. Prior to the initiation of activity in future reserves, the operator shall submit detailed mine and reclamation plans to DHEC for approval.

BUFFER AREAS: 37.0 acres are identified as buffer area, setbacks, or areas that will not be disturbed beyond the pre-mine natural state. These buffer areas are identified on the mine site map. Acres designated as buffer areas are not bonded under the reclamation bond. Any activity within the buffer areas (e.g. removal of timber) shall require **prior** notification and approval by DHEC.

TOTAL PERMITTED AREA: 136.0 acres as submitted on the *Land Entry Agreement(s)*.

Part IV: MAPS

The mine site maps were prepared by Goldie Associates. These maps are further identified with the following SCDHEC map numbers and are part of the operating permit:

SM-0253-1V3	Mine Map – Phase 1	Dated: June 24, 2021
SM-0253-2V1	Mine Map – Phase 2	Dated: June 24, 2021
SM-0253-3V1	Mine Map – Phase 3	Dated: June 24, 2021
SM-0253-4V1	Mine Map – Phase 4	Dated: June 24, 2021

The reclamation maps were prepared by Goldie Associates. These maps are further identified with the following SCDHEC map numbers and are part of the operating permit.

RM-0253-1V3	Reclamation Map	Dated: June 24, 2021
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Part V: RECLAMATION BOND

The Reclamation Bond is based upon the total affected acres (Part III of this permit). Pursuant to Section 48-20-70 and R.89-200, this operator is exempt from providing financial assurance. The S.C. Attorney General's Office issued a written opinion, dated May 5, 1975, exempting County and other governmental agencies from the requirement of posting a Reclamation Bond for a Mine Operating Permit. As a result, Oconee County is relieved of this requirement and the Mine Operating Permit may be issued. However, Oconee County is expected and required to comply with all other appropriate statutory and regulatory requirements.

Part VI: PROTECTION OF NATURAL RESOURCES

1. Describe the area of and around the mine site. Specify topography, surface water systems, wildlife habitats, residential houses, commercial properties, recreational areas, and/or public roads.

This site had been mined prior to the enactment of the S.C. Mining Act in 1975; the immediate area around this site is undeveloped and rural-residential. The topography of this area is highly variable (i.e., large hills and/or mountainous), with surface elevation ranging from 890 - 940 ft. MSL. A tributary to Coneross Creek flows south on the western side of the permitted area to join with water from Coneross Creek Reservoir and Negro Fork Reservoir to the west and east of the site, respectively. Common wildlife typical to this area can be found in and around this site; there are no threatened or endangered species believed to inhabit this area. Most of the adjacent properties are undeveloped land with a few rural residences to the north and west of the site.

2. Methods used to prevent physical hazards to persons and to any neighboring dwelling, house, school, church, hospital, commercial or industrial building, or public road.

A gate shall be installed at the entrance to the mine site and kept locked during inactive periods. *Warning* and/or *Danger* signs shall be posted around the perimeter of the property.

Operator shall use BMPs to prevent accumulation of sediment/soil on public roads carried by trucks and other vehicles exiting the mine site; any accumulations shall be removed by the operator on a daily basis or more frequently if needed. To reduce the potential of trackout on public roads, the operator shall construct a paved road that extends the width of the haul road and stretches a minimum of one hundred (100) feet in length.

The operator shall establish a protected area or establish procedures to minimize fuel spillage or incidental spillage of other petroleum products during storage, refueling of equipment or in the performance of routine maintenance on equipment. Contaminated materials resulting from contact with petroleum products shall be removed from the site and disposed of properly to prevent contamination to ground and surface water resources.

3. Methods used to prevent an adverse effect on the purposes of a publicly owned park, forest, or recreation area.

There are no publicly owned parks, forests, or recreation areas near this mine site.

4. Measures taken to insure against substantial deposits of sediment in stream beds or lakes.

The operator shall comply with the NPDES General Permit for Non-metallic Mineral Mining and Stormwater Pollution Prevention plan developed for the mine.

5. Measures taken to insure against landslides or unstable mine walls.

To maintain stable mine walls, the unconsolidated saprolite shall be sloped to a stable configuration no steeper than 2H:1V during active mining. Per the Mine Safety Health Administration (MSHA) requirements, the hard rock pit walls shall be benched to maintain stability and provide safety. Slopes for final reclamation shall be no steeper than 3H:1V, except for those on the eastern side of the site along Rock Crusher Road, as shown on the mine maps, which can remain 2H:1V.

6. Measures taken to insure against acid water generation at the mine site that may result in pollution on adjacent property.

Acid water is not anticipated to be generated from the oxidation of existing minerals currently found on this site.

7. Measures taken to minimize or eliminate fugitive dust emissions from the permitted area.

The mine operator will use appropriate measures (e.g. water truck, dust suppressants) to control fugitive dust created by moving equipment along haul roads. The operator, where feasible, shall establish vegetation in non-active mine areas barren of vegetation to stabilize the soil and reduce potential for wind erosion and dust emissions.

Part VII: STANDARD CONDITIONS OF MINE OPERATING PERMIT

1) SURVEY MONUMENTS: In accordance to R.89-130, the operator shall install and maintain the two required permanent survey monuments, or control points, within the permitted area as shown on the mine site map. At the discretion of DHEC, the operator may be required to mark the area to be affected with flagging or other appropriate measures.

2) RIGHT OF ENTRY: Pursuant to Section 48-20-130 and R.89-240, the operator shall grant DHEC and/or duly appointed representatives access to the permitted area for inspection to determine whether the operator has complied with the reclamation plan, the requirements of this chapter, rules and regulations promulgated hereunder, and any terms and conditions of this permit.

3) RECORDS RETENTION: All records are to be maintained through additional terms and conditions of this permit or by regulations. Records shall be kept on site or at the office identified for receipt of official mail and open for inspection during normal business hours. The records shall be maintained for a minimum of three (3) years or as specified by DHEC. The operator shall furnish copies of the records upon request to DHEC.

4) PERMIT MODIFICATIONS: Pursuant to Section 48-20-80, the operator may modify the permit and/or *Reclamation Plan* upon approval by DHEC. Requests for permit and/or *Reclamation Plan* modifications may be made to DHEC on Form MR-1300. The operator shall submit any requested supporting data for consideration during DHEC's evaluation of the modification request. If a modification request is determined to be substantial by DHEC, the modification request will be public noticed pursuant to R.89-100 and a modification fee will be required as specified in R.89-340. If DHEC determines activities proposed under the *Reclamation Plan* and other terms and conditions of the permit are failing to achieve the purpose and requirements of the S.C. Mining

Act and Regulations, DHEC shall notify the operator of its intentions to modify the permit and/or *Reclamation Plan* pursuant to Section 48-20-150.

5) TRANSFER OF PERMIT: Pursuant to Section 48-20-70, this permit may be transferred to another responsible party. The transfer of the permit must be conducted in accordance with R.89-230. The transferor of the permit will remain liable for all reclamation obligations until all required documents, plans, and the replacement reclamation bond have been submitted and approved by DHEC. The transfer will be considered complete when all parties have received notification by certified letters of the approval of the transfer by DHEC.

6) DURATION OF MINE OPERATING PERMIT: In accordance with Section 48-20-60, this Mine Operating Permit will remain valid unless this permit terminates as set forth in R.89-270 or is revoked in accordance with Section 48-20-160 and R.89-280. The proposed anticipated mining completion date is shown on the *Schedule for Conservation and Reclamation Practices* in the *Reclamation Plan*.

Pursuant to R.89-80(B), the operator shall conduct reclamation simultaneously with mining whenever feasible. Reclamation shall be initiated at the earliest practicable time, but no later than 180 days following termination of mining of any segment of the mine, and shall be completed within two years after completion or termination of mining on any segment of the mine.

Part VIII: ENFORCEMENT ACTIONS

Pursuant to Section 48-20-30 of the S.C. Mining Act, "DHEC has ultimate authority, subject to the appeal provisions of this chapter, over all mining, as defined in this chapter, and the provisions of the chapter regulating and controlling such activity." This allows DHEC to assist, cooperate with, or supersede other State agencies in taking enforcement action on violations of the State Regulations or violations of the S.C. Mining Act to ensure the purposes of this Act are enforced.

COMPLIANCE: The operator shall comply at all times with all conditions of this mine operating permit. Non-compliance with this mining permit, statute, or regulations could lead to permit revocation and bond forfeiture pursuant to Sections 48-20-160 and 48-20-170 or other enforcement action allowed by law.

Compliance with the Mine Operating Permit requires the operator to conduct the mining operation as described in the approved *Application for a Mine Operating Permit*. Variance from the *Application for a Mine Operating Permit*, this permit, statute or regulation, without first receiving DHEC approval, shall be deemed non-compliance with the permit.

An operator or official representative of the mine operator who willfully violates the provisions of the S.C. Mining Act, rules and regulations, or willfully misrepresents any fact in any action taken pursuant to this chapter or willfully gives false information in any application or report required by this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars nor more than one thousand dollars for each offense. Each day of continued violation after written notification shall be considered a separate offense.

The operator is responsible for all mining activity on the permitted mine site.

Part IX: REPORTS

1) ANNUAL RECLAMATION REPORTS: The operator shall comply with Section 48-20-120 and Regulation 89-210 and submit an *Annual Reclamation Report* on Form MR-1100 as supplied by DHEC. The form for the report will be sent by regular mail to the operator to the mailing address shown on the previous year's *Annual Reclamation Report*. The operator should receive the report form from DHEC by July 1 of each year; however, the operator is ultimately responsible for obtaining the *Annual Reclamation Report* form and is not excused from penalty fees for failure to submit the report on time.

The Annual Operating Fee is a part of the *Annual Reclamation Report*. Failure to submit a complete *Annual Reclamation Report* and fee, in accordance with Section 48-20-120 and R.89-340, will result in a late penalty payment. The *Annual Reclamation Report* and Annual Operating Fee are required if there is any permitted land not fully reclaimed and released by DHEC by June 30 of each year.

2) SPECIAL REPORTS: DHEC may at any time request information, data, or explanations from the operator as to conditions relating to the permitted mine site. Such requests from DHEC shall be made in writing to the operator with an appropriate time frame stated for the submittal of the requested information to DHEC. The operator must produce the information requested within the timeframe specified by DHEC.

Part X: ADDITIONAL TERMS AND CONDITIONS

1. If archaeological materials are encountered prior to or during the construction of mine facilities or during mining, the S.C. Department of Archives and History and DHEC should be notified immediately. Archaeological materials consist of any items, fifty years or older, which were made or used by humans. These items include, but are not limited to, stone projectile points (arrowheads), ceramic sherds, bricks, oyster shell, worked wood, bone and stone, metal and glass objects, human skeletal remains, and concentrations of charcoal and stones below the ground surface. These materials may be present on the ground surface and/or under the surface of the ground.
2. Temporary or permanent placement of refuse and debris (e.g., concrete, brick, asphalt) from off-site locations is prohibited without approval by DHEC. Topsoil fill approved by DHEC may be brought in from off-site sources only for the purposes of mine land reclamation.
3. In the future, if determined to be necessary by DHEC, an appropriate fence will be installed around the affected area.
4. A revised mine map, reclamation map, and reclamation schedule must be submitted and approved by DHEC prior to initiating any mining activity in Future Reserves.
5. As portions of parcel TMS#190-00-03-034 are purchased by Oconee County annually, updated Land Entry Agreements shall be submitted to DHEC within 30 days of the closing dates.

APPENDIX A

MODIFICATIONS TO MINE PERMIT I-000253

NUMBER	DATE	DESCRIPTION OF MODIFICATION (PA= Permitted Acreage; AA= Affected, Bonded Acreage; FR= Reserves Acreage, B= Buffer Acreage)
Issue	9/4/75	Permit issued; PA = 58.3ac., AA = 39.5ac., FR = 10.8ac., B = 8.0ac.
18-1		PA = 136.0ac., AA = 87.0ac., FR = 12.0ac., B = 37.0ac. Adds approximately 78ac to permit.

Regulation 89-10 through 89-350

Office of the Governor – Mining Council of South Carolina

Disclaimer

DHEC provides this copy of the regulation for the convenience of the public and makes every effort to ensure its accuracy. However, this is an unofficial version of the regulation. The regulation's most recent final publication in the *South Carolina State Register* presents the official, legal version of the regulation.

Regulation History as Published in State Register			
Date	Document Number	Volume	Issue
June 24, 1983	300	7	6
August 26, 1983 (Errata)	300	7	8
June 27, 1986	688	10	6
April 24, 1992	1441	16	4
June 27, 2003	2802	27	6, Part 1

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89-10. Definitions.

Terms which have been defined in the Act shall have the same definitions when utilized in these Regulations. Additional definitions are as follows:

A. “Temporary overburden” means overburden which will be moved back into the mine or which will otherwise be disposed of in reclaiming the mined areas.

B. “Permanent overburden” means overburden that will be moved directly from the source to its planned final location.

C. “Best Management Practices” (erosion and sediment control) means a practice or combination of practices that are determined by the Department to be an effective and practicable means of controlling nonpoint pollutants, particularly a practice or combination of practices that are determined to be an effective and practicable means of erosion and sediment control. Acceptable practices may include, but not be limited to: check dams, diversions, filter berms, drop structures, dust suppressants, mulching, riprap, sediment basins, sediment traps, engineered stream crossings, and vegetation.

D. “Topsoil” means the surface layer and/or its underlying materials that have properties capable of producing desirable reclamation and vegetation.

89-20. Activities Requiring Permits.

No operator shall engage in mining without having first obtained from the Department an operating permit which covers the affected land provided that no permit shall be required for those activities specifically exempted by the Act. An operating permit shall be required if the affected land for an exploratory excavation involving the development of open pits, trenches, open cuts or tunneling is to exceed two acres. An operating permit will not be required to remove minerals stockpiled prior to July 1, 1974, or if the affected land for an exploratory excavation is to be less than two acres as long as no minerals from such exploratory activity are sold, processed for sale, or consumed in the regular operation of business. A Certificate of Exploration shall be required for exploratory excavations involving the development of open pits, trenches, open cuts or tunneling, and which will affect an area two acres or less. A Certificate of Exploration is not required for core drilling or sample drilling or conducting geophysical and geochemical sampling and analysis.

89-30. Exemption from Operating Permit.

An operating permit shall not be required for excavation or grading conducted solely in aid of on-site farming or on-site construction. This shall include grading, backfilling, plowing or excavating areas for agriculture, aquaculture, silviculture or on-site construction. In the event the Department is uncertain as to the specific use of material resulting from on-site farming or on-site construction, a letter of intent may be required prior to granting an exemption from an operating permit. Exemptions granted by the Department may include references to other required plans or permits including, but not limited to, local land use permits, grading permits, erosion and sediment control plans or conservation plans.

89-40. Development of Administrative Forms.

The development of all administrative forms necessary to comply with the South Carolina Mining Act and as referenced in these regulations shall be initiated by the Department. Development of all forms by the Department shall include advice and input by interested parties and shall include a 30 day period of

review prior to adoption for official use. In the event the content of the forms is not satisfactory to the interested parties, the forms shall be submitted to the South Carolina Mining Council for declaratory ruling.

89-50. Application Requirements for a Certificate of Exploration.

A. Section 48-20-50 of the Act states that an explorer engaging in exploration activities regulated pursuant to the Section shall make written application to the Department on forms furnished by the Department. A completed application shall consist of:

- (1) One copy of Form MR-200 entitled “Application for a Certificate of Exploration”.
- (2) One copy of Form MR-300 entitled “Reclamation Plan for Exploration”.

B. The “Application for a Certificate of Exploration” and the “Reclamation Plan for Exploration” shall be completed in typewritten or hand-printed form as part of the completed application.

89-60. Application Requirements for an Operating Permit.

A. Section 48-20-70 of the Act states that any operator desiring to engage in mining shall make written application to the Department on the forms furnished by the Department. A completed application shall consist of:

- (1) One copy of the form entitled “Application for a Mining Permit”.
- (2) Two copies of the form entitled “Reclamation Plan”.
- (3) One copy of the form entitled “Land Entry Agreement-Owner” (MR-600) (if the mine operator owns the land) or one copy of the form entitled “Land Entry Agreement-Lessor/Lessee” (MR-700) (if the mine operator leases the land).
- (4) One copy of a letter from an attorney attesting to the ownership of the property, ownership of mineral rights and that the operator has acquired rights to mine the property.

B. Supplemental information may be required as part of the operator’s application or after the Department reviews the operator’s application for permit. When supplemental information is required, the Department shall state in writing to the applicant the information required and the reason or reasons for requesting such supplemental information. All supplemental information shall be submitted in typewritten or hand printed form to the Department.

89-70. Application for a Mining Permit.

Form MR-400 entitled “Application for a Mining Permit”, shall be completed in typewritten or hand printed form as part of the completed application.

89-80. Reclamation Plan.

A. The basic objective of the reclamation plan shall be to establish, on a continuing basis, a vegetative cover, soil stability, and water and safety conditions appropriate to the area.

B. Reclamation shall be conducted simultaneously with mining whenever feasible and in any event shall be initiated at the earliest practicable time, but no later than within 180 days following termination of mining

on any segment of the mine and shall be completed within two years after completion or termination of mining on any segment of the mine.

C. The reclamation plan, shall, to the extent applicable, include:

- (1) The planned land use or uses to which the affected lands will be rehabilitated;
- (2) The specifications for surface gradient restoration, including sketches delineating slope angle, to a surface suitable for the proposed subsequent use of the land after reclamation is completed, and the proposed method of accomplishment;
- (3) The methods to prevent or eliminate conditions that will be hazardous to animal or fish life in or adjacent to the affected land;
- (4) The methods for rehabilitating settling ponds;
- (5) The method for restoring or establishing stream channels and stream banks to a condition which will minimize erosion and siltation;
- (6) The method for the control of contaminants and disposal of the refuse including tailings;
- (7) The measures to provide safety to persons and adjoining property in all excavations;
- (8) The measures to prevent the collection and retention of small pools of water that are likely to become noxious, odious, or foul;
- (9) A plan for the permanent revegetation, reforestation or other surface treatment of the affected land using accepted and recommended agronomic and reforestation practices of the South Carolina Agricultural Experiment Station of Clemson University and the South Carolina Commission of Forestry or the State Soil and Water Conservation Districts. The revegetation plan shall include but not be limited to the following:
 - (a) Planned soil tests;
 - (b) Site preparation and fertilization;
 - (c) Seed or plant selection;
 - (d) Rate of seeding or amount of planting per acre;
 - (e) Maintenance.
- (10) A plan for the maintenance of any revegetated or reforested area through the second growing season or until such time as the reclaimed area shall be released from bond;
- (11) A time schedule of reclamation activities, particularly those relating to Best Management Practices for sediment and erosion control, which shall be keyed to the maps required by these regulations;
- (12) Two copies of a map which shall be of the same scale, quality and legibility as the map submitted with the mining permit application under these Regulations and which shall show, to the extent applicable, the following:

(a) The outline of the proposed final limits of the excavation, during the number of years for which the permit is requested;

(b) The approximate location of final cut or fill slopes not part of the general surface gradient of the area to be reclaimed;

(c) The outline of the tailings disposal area;

(d) The outline of disposal areas for spoil and refuse (exclusive of tailings ponds);

(e) The approximate location of the mean shore line of any impoundment or water body which will remain upon final reclamation;

(f) The approximate locations of access roads, haul roads, or ramps which will remain upon final reclamation;

(g) The approximate location of various vegetative treatments;

(h) The proposed locations of re-established streams or ditches to provide for drainage;

(i) The proposed locations of diversions, terraces, or other Best Management Practices to be used for preventing or controlling erosion and off-site siltation;

(j) The proposed locations of the measures to provide safety to persons and adjoining property;

(k) A legend showing the name of the applicant, the name of the proposed mine, the north arrow, the county, the scale, the date of preparation and the name and title of the person who prepared the map;

(l) The boundaries of the permitted area;

(m) The boundaries of the affected area for the anticipated life of the mine.

(n) The boundaries of the 100-year floodplain, where appropriate.

D. The Department shall be authorized to approve a reclamation plan despite the fact that such plan does not provide for reclamation treatment of every portion of the affected land, where the Department finds that because of special conditions such treatment would not be feasible for particular areas and that the plan takes all practical steps to minimize the extent of such areas.

E. Form MR-500, entitled "Reclamation Plan", shall be completed in typewritten or hand printed form as part of the completed application.

89-90. Land Entry Agreement.

A. Form MR-600, entitled "Land Entry Agreement for Land Owned by Mine Operator", shall be completed in typewritten or hand printed form as part of the completed application; or

B. Form MR-700, entitled "Land Entry Agreement for Land Leased by Mine Operator", shall be completed in typewritten or hand printed form as part of the completed application. Lessor's consent will not be required for leases executed prior to July 18, 1980.

89-100. Advertising and Notice of an Applicant’s Intent to Mine or Substantial Modification of a Permit.

A. The applicant for a permit shall provide the most recent county tax map(s) and names and addresses of the owners of real property, as they appear on the county tax maps, as contiguous to the proposed mine permit area. The Department shall send a notification to contiguous landowners of the application by regular mail.

B. Any notice of an applicant’s intent to mine or of a substantial modification of a permit which may be required by law shall be advertised in a newspaper of general circulation in the area of the proposed mine. The advertisement will appear once a week for two consecutive weeks. The Department shall be responsible for the cost of advertising.

C. The advertisement must be at least two column inches long and state the name of the applicant, the location of the proposed mine, the county, the city, town or community nearest to the proposed mine, the primary mineral(s) to be mined, proposed land use(s) following reclamation and the last date of the public comment period.

D. Advertising will be considered complete when the Department receives affidavit(s) of publication.

89-110. Public Hearings Upon Request Following Advertisement of Intent to Mine or Substantial Modification of a Permit.

A. A public hearing will be held by the Department, following the last required date of advertisement of any application for a permit or any substantial modification, when requested in writing by ten persons or by a governmental subdivision or agency or by an association having not less than ten members. A request for a public hearing must also be based on sufficient technical reasons. The Department shall send a notice acknowledging receipt of a petition for a public hearing to the applicant and to the petitioners within fifteen (15) calendar days following receipt of the petition.

B. Public hearings held pursuant to this Section shall be for the purpose of receiving data, views, comments or arguments from all interested parties concerning any application for a permit to mine or substantial modification of an existing permit. A public hearing is not an adjudicatory hearing pursuant to the Administrative Procedures Act.

C. Requests for a public hearing are considered to have been made when received by the Department within fifteen (15) calendar days from the date of last required advertisement.

D. When a public hearing has been scheduled by the Department, public notice of the hearing shall be given at least thirty (30) calendar days prior to the date on which the public hearing will be held.

(1) The public notice shall contain all of the following information:

(a) The date of the notice;

(b) The Department’s name, address, and telephone number;

(c) A statement of the date, time, and location of the public hearing;

(d) A statement that the Department will hold a public hearing to receive written and oral comments on a proposed application or modification; and

(e) A short statement describing the nature of the application or modification; and

(f) A statement indicating the final date for receipt of written comments.

(2) Public notice shall be accomplished by all of the following:

(a) Advertising the notice once a week for two consecutive weeks in a newspaper of general circulation in the area of the proposed mine;

(b) Mailing a copy of the notice to the applicant for a mining permit;

(c) Mailing a copy of the notice to the person(s) petitioning the Department; and

(d) Mailing a copy of the notice to Soil and Water Conservation District commissioners in the County where the mine is or is to be located.

E. Public hearings may be recorded and/or transcribed by the Department or by a certified Court Reporter retained for the hearing.

89-120. Terms and Conditions of Permit.

A. The terms and conditions of the permit shall be as set forth in the approved Application for a Mining Permit and the approved Reclamation Plan.

B. The Department may impose terms and conditions on the applicant's or operator's permit provided:

(1) There is a basis in law for the provision of such terms and conditions; and

(2) The Department shall have reviewed the mining and reclamation plans of applicant or operator; and

(3) Inspected the lands permitted or to be permitted; and

(4) Determined that applicant's or operator's plans are inadequate for public safety and to properly protect and safeguard the land, water, air and environment of adjacent non-permitted lands; and

(5) The Department shall notify the applicant or operator in writing of the terms and conditions imposed and the reasons for such additional terms and conditions.

C. Such imposed terms and conditions may include and cover, but are not limited to the following:

(1) Best Management Practices for Sediment and Erosion Control:

Appropriate Best Management Practices for sediment and erosion control shall be designed, constructed, and maintained to prevent additional contribution of sediment to streams, lakes or ponds or land outside the permit area. Where applicable, sediment and erosion control measures to prevent degradation of the environment shall consist of the utilization of proper reclamation methods and sediment control practices including, but not limited to:

(a) Grading the backfill material to reduce the rate and volume of runoff;

(b) Retaining sediment within the pit and disturbed area;

(c) Establishing temporary vegetation or mulch on areas that will remain subject to erosion for as long as six months.

(2) Visual Screening Measures:

The Department may require visual screening, vegetative or otherwise, so as to screen the view of the operation from public highways, public parks, or residential areas, where the Department finds such screening to be feasible and desirable.

(3) Dewatering Measures:

(a) In areas of documented groundwater-related impacts from dewatering activities or potential significant impact as determined by the Department, the Department may require the operator to install a groundwater monitoring system to evaluate pre-mining groundwater conditions.

(b) In areas of documented groundwater related problems or potential significant impact as determined by the Department, the operator may be required to keep accurate records of the time and rate of groundwater pumping, groundwater elevations in the pit or groundwater elevations in observation wells during mining.

(c) Information collected from a pre-mine groundwater monitoring system and during mining will be used by the operator and Department to determine provisions which meet the requirements for the protection and/or restoration of surface water or groundwater impacted by mine dewatering.

(4) Cultural and Historic Sites:

(a) In areas of significant cultural and historic sites, the Department may require a survey of cultural and/or historic resources on the proposed mine site by a consultant or other qualified person retained by the operator.

(b) Information obtained from the survey will be used by the operator and Department to determine provisions which meet the requirements for the protection, relocation, or excavation of significant cultural or historic sites as mining progresses.

(5) Operators Mining in Rivers and Streams:

(a) A minimum fifty-foot border of natural vegetation between the water's edge and any plant site on the permitted area shall be left undisturbed subject to the operator's right to normal access to the stream. When the materials extracted are not processed after removal and no plant is located on the property, the operator shall take all necessary precautions to preserve the integrity of the stream bank.

(b) The S. C. Department of Highways and Public Transportation and/or the S. C. Public Service Commission may be contacted in reference to setback requirements from bridges, railroad trestles and other structures for in-stream mining activity.

(c) Where appropriate, Best Management Practices, such as sediment traps and sediment fences shall be installed and maintained to minimize the amount of sediment and spoil returning to the stream.

(d) Where appropriate, the Department may require that all facilities such as dredges, pumps and floating pipelines which are placed in any stream or other body of water navigable by boats and water recreational vehicles be identified by flags, signs and lights.

(e) Sediments, spoil or screening shall not be placed so as to build up the water surface or near enough to the water surface to interfere with normal flow of the stream or traffic by boat or recreational vehicles.

(6) Noise Monitoring and Control.

(a) On initial applications or permits having substantial modifications where the Department determines that a mining operation may significantly increase noise levels on neighboring property, the operator may be required to conduct monitoring to determine background noise levels.

(b) Information collected from the noise monitoring will be used by the operator and Department to determine provisions to minimize noise levels to neighboring landowners.

D. The applicant may voluntarily agree to place terms and conditions on the permit. Such voluntary terms and conditions become binding and fully enforceable. Such voluntary terms and conditions do not (1) become binding on any other permit, (2) establish any precedent, (3) establish any standard procedure or standard practices or (4) have any application outside the permit.

89-130. Operating Permit Survey Control Points.

A. The operator shall be required to clearly mark the boundary of the permitted area prior to initiating mining. Boundary markers shall be maintained throughout the life of the mine. The operator shall also install and maintain two (2) permanent survey monuments or control points within the permitted area at least 100 feet apart.

B. As determined to be necessary, the Department may require the operator to place control markers at the boundary of the area to be affected under the operating permit.

89-140. Minimum Standards for Environmental Protection and Land Reclamation.

A. In all excavation of rock, provisions for safety to persons and to adjoining property must be provided including, but not limited to the following requirements:

(1) Fencing may be required at any excavation in rock which exceeds twenty feet in depth. Fencing along “natural barriers” such as swamps, rivers, and salt marsh may not be required. Fencing along sides of quarries on natural slopes or where no highwall is present may be required to discourage access to the base of highwalls present in other parts of the quarry. Cultural or other barriers including, but not limited to, rock barricades, elevated roadways, railroads and building facades may be accepted by the Department.

(2) The type of fence required by the Department depends primarily on the location of the excavation. The types of fences which may be required by the Department are woven wire, barbed wire, chain link, or combination of the three. Woven and barbed wire fences are generally suitable for rural areas with no adjacent development. Chain link fences are suitable generally for urbanized or heavily developed areas. If the area adjacent to an excavation becomes urbanized after a fence suitable for a more remote location has been installed and accepted, upgrading of the fence may be required.

(3) Woven wire fence fabric shall be at least thirty-nine inches in width. Woven wire fences shall be topped with two strands of two-point, twelve and one-half gauge or heavier barbed wire having barbs not over five inches apart. Thirty-nine inch woven wire shall have nine lines with six inch spacing on stay wires. Barbed wire fences shall have at least five equally spaced strands of four-point barbed wire, twelve and one-half gauge or heavier with barbs not more than five inches apart. The top strand must be forty-five inches above the ground. Chain link fence fabric shall be not less than sixty inches in width. Forty-eight inch chain link fences may be substituted for woven wire or barbed wire fences. Chain link fences must be eleven and one-half gauge and have a tension wire or rails at the top and bottom. Higher chain link fences or chain link fences topped with three or four strands of four-point, twelve and one-half gauge or heavier barbed wire, with barbs not over five inches apart, may be required in certain cases. The bottom strand of the fence shall not come in contact with the ground and there must be no excessive openings between the ground and the bottom of the fence. Opening under fences, caused by crossing ditches or small ground depressions where it is not practical for the fencing to follow closely the contour of the ground, must be fenced or otherwise closed.

B. All overburden and spoil shall be placed so as not to result in deposits of sediment in streams, lakes, or on adjacent property. Also, it shall not be placed in such a way as to interfere with proper drainage. If the Department finds environmental degradation or degradation of the scenic values in the non-permitted area resulting from sedimentation or water pollution, then the Department may require corrective measures including, but not limited to:

(1) Runoff from the temporary overburden piles will be diverted into the mining operation, pits, sediment basins or otherwise prevented from leaving the site until adequate settlement or filtration has been accomplished.

(2) Temporary overburden piles shall not be placed in or infringe on natural drainageways or floodways, unless proper designs are utilized.

(3) Temporary overburden piles in public view shall be vegetated as rapidly as the placement operations permit.

(4) Each segment of permanent overburden shall be shaped and vegetated (where appropriate) as rapidly as placement progresses.

(5) The shape of the permanent overburden material will blend in with the natural landscape and in accordance with the Reclamation Plan.

(6) Temporary or permanent Best Management Practices for erosion control shall be used as needed to prevent sediment from leaving the site.

(7) Permanent overburden piles shall be placed in a manner consistent with land use and in a manner which will not interfere with natural drainage, drainageways, or floodways.

C. Topsoil, sufficient to satisfy reclamation requirements, shall be removed and stored in such a manner as to remain available for reclamation and shall not be carried away or covered up with other materials. Topsoil which has been saved for future reclamation shall not be removed from the affected area unless authorized by the Department.

D. During the mining operation and reclamation work, care must be taken to prevent any excessive drainage or accumulation or release of excess water that may damage the adjoining property of other owners.

89-150. Surface Blasting Requirements.

A. Pre-Blast Survey

(1) Prior to initial blasting activities or significant modification of a permit which expects to use blasting, the operator shall be responsible for a pre-blast survey of inhabited structures (commercial buildings, homes, churches, barns) that are within one-half mile of any blasting to be conducted by the operator. The survey may exclude structures that the operator owns or has a waiver of damage.

(2) The operator shall submit to the Department the names and addresses of the owners of inhabited structures within the one-half mile. The Department will notify, in writing, the appropriate structure owner informing them of their right to have their structures inspected at no cost to the structure owner. Based on the response from the owner, the Department will notify the operator as to which structures are to be inspected.

(3) The survey shall be conducted by a consultant or other qualified person retained by the operator and approved by the Department. The consultant or other qualified person shall inspect each designated structure to determine the base line condition of that structure before blasting is initiated.

(4) The owner shall have the right to be present during the survey of his structure. A written report of the inspection shall be submitted to the Department, owner of the structure and to the operator.

B. The operator shall keep accurate records of the use of explosives including, but not limited to, spacing, depth, and pattern of holes, pounds of explosive per delay, total pounds of explosive used per event, and the date and time of the blasts. These records shall be retained for at least three years.

C. When the Department finds it necessary to monitor a blast in an investigation of a written complaint, the operator upon written request from the Department shall give the Department forty-eight hours notice before blasting, such request to become effective forty-eight hours after receipt of the written request.

D. Access into the blasting area shall be controlled by the operator to protect the public and livestock from physical effects of flyrock.

E. In all blasting operations the maximum peak particle velocity measured in any three mutually perpendicular directions shall not exceed one inch per second at the immediate location of any dwelling, public building, school, church, or commercial or institutional building. The maximum peak particle velocity requirement does not apply to structures within the permitted area, or any area that is owned or leased by the operator. Leased as used above shall include structures on which the operator has acquired waiver to damage rights.

F. An equation for determining the maximum weight of explosives that can be detonated within any 8-millisecond period is contained in the following paragraph. If the blasting is conducted in accordance with this equation, the maximum peak particle velocity shall be deemed to be within the 1-inch per second limit.

G. The maximum weight of explosives to be detonated within any 8-millisecond period may be determined by the formula $W = (D/60)^2$ where W = the maximum weight of the explosive, in pounds, and D = the distance, in feet, from the blast to the nearest dwelling, school, church, or commercial or institutional building.

H. On applications for new areas dated subsequent to the date of these regulations, the operator shall maintain a minimum distance of two hundred fifty (250) feet from contiguous property boundaries when conducting blasting.

I. To provide for adequate public safety, the operator shall be required to maintain a minimum distance between the nearest point of blasting and any structures not owned by the operator as of the completed application date or where there is no waiver of damage. The minimum distance shall be established by the Department after considering the method of mining, site conditions, proposed directions of blasting, type and use of neighboring structures, previous blasting record, and/or other factors as deemed appropriate by the Department.

J. The operator shall notify the Department within twenty-four (24) hours following the observation or discovery of flyrock outside of the permitted area that resulted from blasting operations at a mine. Based on the flyrock incident, the Department may require the operator to submit a written report outlining the cause of the excessive flyrock and a plan to adequately control flyrock. Any report and plan submitted by the operator must be reviewed by the Department prior to conducting additional blasting.

89-160. Requirements for Substitution of Land to be Reclaimed.

An operator shall have the right to substitute and reclaim an area mined in the past for an area presently being mined, the substitution being subject to approval by the Department. Such substitutions may be made on an acre-for-acre basis if the estimated cost of reclamation is comparable. Other ratios may be agreed upon depending on the relative ease of reclamation or upon the value or desirability of reclaiming such substituted land.

89-170. Departmental Procedure for Granting a Permit.

A. When the Department receives the Application for a Mining Permit, it shall advertise the applicant's intent to mine.

B. The Department may refer copies of the Application for a Mining Permit to the State Water Resources Commission, Department of Health and Environmental Control, Wildlife and Marine Resources Department, Coastal Council, Department of Archives and History, Institute of Archeology and Anthropology, Department of Highways and Public Transportation, appropriate County Council or County Administrator's office, appropriate town or municipal government office or other state or local agencies for review and comment. The Department may request the assistance of other state agencies or local agencies in evaluating the application and the reclamation plan or in developing the terms and conditions.

C. Within sixty days from the time the completed application for a permit is filed, the Department shall approve, approve with stated modifications, or disapprove the application.

D. Upon approval of the application, the Department shall:

- (1) Set the amount of bond required;
- (2) Notify the applicant in writing of:
 - (a) The date of approval;
 - (b) The amount of bond required;

(c) The date by which bond must be posted, and;

(d) The terms and conditions of the permit.

(3) Send a copy of the approved Reclamation Plan to the local Soil and Water Conservation District.

E. The operator shall have sixty days following the mailing of such notification in which to post the required bond.

F. When the Department receives and approves the required performance bond, it shall issue the permit.

89-180. The Reclamation Bond.

A. In the event a surety bond will be given to secure the obligation for reclamation, Form MR-800 will be completed.

B. In the event cash or registered securities or a savings account assignment will be given to secure the obligation for reclamation, Form MR-900 will be completed.

C. In the event, cash, registered securities, or a savings account assignment will be given to secure the obligation for reclamation, Form MR-1000 must also be completed. All registered securities must be assigned and registered to the State of South Carolina. Savings accounts must be issued jointly in the name of the operator and State of South Carolina.

D. In the event an irrevocable letter of credit will be given to secure the obligation for reclamation, Form MR-1050 will be completed.

E. The following items will be verified by the Department to determine the acceptability of a letter of credit:

(1) The letter of credit must be issued by a financial institution which is federally insured and must be issued or confirmed through a South Carolina institution with a minimum asset value of fifty million (\$50,000,000) dollars.

(2) The document must be immediately payable on demand by and to the State of South Carolina in the full amount of the required bond.

(3) The letter of credit must be accompanied by power of attorney granting the Department full power to assign, appropriate, apply or transfer the deposit or any portion thereof, for the satisfaction of any damages, assessments, late payment charges, penalties, or deficiencies arising out of any default in the performance of the terms covered by the bond.

(4) The letter of credit must contain a clause providing that, in the absence of notice from the financial institution to the Department at least 90 days prior to the stated or any extended expiration date not to renew the credit represented by the letter of credit, the letter of credit will be automatically renewed in full force and effect for an additional one year period.

(5) The letter of credit must authorize the Department to exercise the right to collect the full amount of credit from the financial institution in the event of either (1) a default occurring prior to the expiration date (including any extended date) or (2) failure of the operator to furnish an acceptable substitute bond at

least 30 days prior to the expiration of the letter of credit if the financial institution gives proper 90 day notice of intent not to renew the letter of credit.

89-190. Requirements and Procedures for Handling Surety Bonds or Other Securities.

A. The Department will deposit registered securities, certificates of deposit, passbooks for the assignment of a savings account with the State Treasurer's Office.

B. Interest, rents or dividends payable on such securities or accounts shall accrue to the interest of, shall be paid to, or shall be withdrawn or collected by the operator.

C. Prior to posting registered securities as a reclamation bond, and at least annually thereafter, the Department shall require the operator to have a Securities Analyst conduct an evaluation of the financial performance of the underlying entity.

D. The Department will place cash deposits in an escrow account, non-interest bearing to the operator, with the State Treasurer.

89-200. Amount of Bond or Other Security.

A. A bond or other security must be provided to cover the land to be affected by mining for a three-year period of operation plus all affected areas including sediment or tailings ponds, stock or waste piles, entrance roads and processing plants. An operator, upon prior approval by the Department, may reduce the required bond amount by reclaiming abandoned mined land.

B. For mining operations with affected lands greater than twenty-five (25) acres, the Department may require the operator to prepare a written estimate of the cost of reclamation activities. Cost estimates prepared by the operator may be used by the Department in establishing reclamation bond amounts. The cost estimate shall reflect the customary and prevailing rate for performing and completing all reclamation requirements.

C. In the event a mining operation with an affected area greater than twenty-five (25) acres exceeds the bonded acreage by more than ten (10) percent, the Department shall be notified in writing. Following notification, the Department shall evaluate the bonded acreage and determine the bond amount for the total affected area.

D. In the event it is found at any time that the amount of disturbed land for which a bond or other surety has been posted is more than the bonded area, the Department may require the operator to file additional bond or surety sufficient to cover the amount of land disturbed by such operation.

89-210. Annual Reclamation Report.

Form MR-1100, entitled "Annual Reclamation Report", shall be completed in typewritten or hand printed form as required by the Act.

89-220. Application for Modifying a Mining Permit and/or Reclamation Plan.

When an operator requests modification of a mining permit and/or reclamation plan, Form MR-1300, entitled "Application for Modifying a Mining Permit and/or Reclamation Plan", shall be completed in typewritten or hand printed form and submitted to the Department.

89-230. Transfer of Operating Permit.

A. In accordance with Section 48-20-70 of the Act, an operating permit may be transferred when one succeeds to the interest of another. An operating permit may be transferred to the successor operator when the following documents have been completed and submitted to the Department for review:

(1) One copy of Form MR-1400 entitled "Transfer Agreement".

(2) One copy of Form MR-500 entitled "Reclamation Plan".

(3) One copy of Form MR-600 entitled "Land Entry Agreement-Owner" (if the mine operator owns the land) or one copy of Form MR-700 entitled "Land Entry Agreement -Lessor/Lessee (if the mine operator leases the land).

B. Following review of the completed documents to transfer an operating permit and receipt of the required reclamation bond, the Department shall issue an operating permit to the successor operator.

89-240. Inspections by the Department.

The Department, by and through its accredited representatives, may conduct inspections and investigations of the permitted area at any reasonable time for the purposes of determining whether the operator has complied with the reclamation plan, the requirements of the Mining Act, any rules and regulations promulgated thereunder, and the terms and conditions of the Certificate of Exploration or operating permit. Prior to or at the time of such inspection or investigation, the Department's accredited representative shall notify the explorer or operator by any appropriate method that an inspection is to be conducted. The accredited representative shall comply with the regulations of the Mine Safety and Health Administration when conducting inspections pursuant to this regulation.

89-250. Criteria for Determining Amount of Civil Penalty.

In determining the amount of civil penalty assessment, pursuant to Section 48-20-220 of the S. C. Mining Act, the Department shall consider the following criteria insofar as they are appropriate to the violation:

(A) Nature of violation;

(B) Degree and extent of the harm, including off-site damage;

(C) Duration of the violation;

(D) Cause of the violation;

(E) Cost of compliance and rectifying any harm or damage;

(F) Violator's previous record of compliance with the Mining Act, or any rules promulgated thereunder, or any mining permit issued to the violator;

(G) Documented staff investigative costs consisting of salary plus expenses, exclusive of overhead;

(H) Effectiveness of any action taken by the operator;

(I) Magnitude of potential or actual gains by the operator resulting from the violation;

(J) Demonstration of good faith by operator.

89-260. Grounds for Canceling an Application for a Permit.

If the required performance bond is not filed with the Department within sixty days following the mailing of notification of approval of the applicant's application for a permit, the Department will cancel the Application for a Mining Permit including the reclamation plan, unless such delay beyond sixty days can be clearly shown to have been beyond the applicant's control.

89-270. Termination of Mining Operation.

A. The Department may declare a mining operation or a segment of a mining operation terminated when no mineral has been excavated or extracted or overburden removed or regraded for a period of twenty-four (24) consecutive months.

B. At the request of the operator and with the approval of the Department, an operation where no mineral or overburden has been removed for twenty-four (24) consecutive months will not be terminated if mining has not begun or if:

(1) Best Management Practices for sediment and erosion control are installed to the extent feasible on disturbed areas.

(2) Drainage control structures such as culverts and ditches are properly installed and maintained.

(3) Vegetation is established and maintained as determined to be feasible.

89-280. Hearings and Hearing Procedure for Suspension or Revocation of Mining Permits by the Department.

All hearings before the Department involving the suspension or revocation of mining permits shall be conducted in accordance with Section 48-20-160 of the 1976 South Carolina Code of Laws and Act 176 of 1977 as amended; and, any decision of the Department shall be in writing and shall comply with the provisions of Act 176 of 1977 as amended.

89-290. Hearing Procedure for Appeals of a Decision of the Department to the South Carolina Mining Council.

A. Any applicant for a mining permit or any person who is aggrieved and is directly affected by the permit may appeal to the Mining Council from any decision or determination of the Department issuing, refusing, modifying, suspending, revoking, or terminating an operating permit or reclamation plan, or imposing any term or condition on such permit or reclamation plan.

B. The person taking the appeal shall within thirty days after notification of the Department's decision, give written notice to the Mining Council through its secretary that he desires to take an appeal, at the same time filing a copy of the notice with the Department. The said notice shall contain a statement describing the specific matters appealed.

C. If more than one appeal is filed with the Mining Council within the thirty day period following the decision by the Department, then the Council may consolidate the hearing and review of the appeals by the Mining Council.

D. At its annual meeting, the Mining Council shall establish a standing Appeals Committee to hear appeals pursuant to this Section. This Committee shall consist of the Chairman of the Mining Council and two members elected by a majority of the Council, one member being a mining industry representative and the other not being a mining industry representative as designated in the organizational composition of the Mining Council. An alternate shall be elected for each of the above Committee members following the same procedure. In the event that the Chairman is unable to serve on the Committee, the Vice-Chairman shall assume the chairmanship for the period of time necessary to address the pending appeal. Nothing herein shall preclude the election of an appeals committee member or alternate to fill a vacancy during the year at any called meeting of the Mining Council.

E. If the person taking the appeal requests a hearing before the hearing panel, the Chairman of the Council may accept recommendations for member(s) of the hearing panel. The hearing panel may consist of one or more individuals. The Chairman of the Council shall be responsible for appointing the hearing panel which must be agreed to by the appellant(s), the Council, the operator and the Department.

F. Hearings shall be conducted and a final decision issued by the Appeals Committee or the Hearing Panel unless the appellant specifically requests a hearing before the full Mining Council in his written notice of appeal. In this event, the full Mining Council may hear the appeal or may, by a majority vote, assign the appeal to be heard by the Appeals Committee. At any hearing conducted by the Council, a majority of the members shall constitute a quorum; at any hearing conducted by the Appeals Committee all three members shall be required for a quorum.

G. When a hearing has been scheduled by the Mining Council, notice of the hearing shall be given to all concerned parties at least twenty (20) calendar days prior to the date on which the hearing will be held.

- (1) The notice of a hearing shall be sent by the Chairman of the Council.
- (2) This notice shall contain all of the following information:
 - (a) The date of the notice;
 - (b) The Council's name, address and telephone number;
 - (c) A statement of the date, time, and location of the hearing;
 - (d) A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - (e) A reference to the particular sections of the statutes and rules involved; and
 - (f) A short statement describing the specific matters appealed.

H. All hearings shall be conducted in accordance with the Administrative Procedures Act 176 of 1977 as amended, except as may be herein provided.

I. The final order shall be issued by the Chairman of the Council, and the decision of the Appeals Committee, Hearing Panel or Council shall represent the view of the majority of the Appeals Committee, Hearing Panel or Council members voting at the hearing.

J. The final order shall be written within thirty (30) days following the hearing and shall comply with the provisions of the Administrative Procedures Act 176 of 1977 as amended.

89-300. Declaratory Ruling.

A. Any person may petition the Council for a declaratory ruling as to the applicability of any statutory provision or the content of administrative forms or of any rule or order of the South Carolina Mining Council.

B. Such a petition shall be in written form and addressed to the Chairman of the Council.

C. A decision on the petition shall be issued in written form within sixty days of receipt of the petition, provided that this period may be extended with the written approval of the petitioner.

89-310. Petition for Promulgation, Amendment, or Repeal of Regulations.

A. Any interested person may petition the South Carolina Mining Council requesting the promulgation, amendment, or repeal of any regulation.

B. This petition shall be in written form and addressed to the Chairman of the Council.

C. Within thirty days of receipt of the petition, the Council shall either deny the petition or initiate regulation-making proceedings.

D. In any case where the Council denies the petition, it shall do so in written form and it shall state the reasons for its denial.

E. A hearing may be initiated by any aggrieved person seeking to contest the authority of the South Carolina Mining Council to promulgate a regulation provided that a written request for such a hearing is submitted to the South Carolina Mining Council prior to final promulgation of the regulation.

89-320. Notices.

Whenever written notice is required to be given by the Department, such notice shall be mailed by registered or certified mail to the permanent address of the applicant or operator as set forth in his most recent application for an operating permit or for a modification or latest Annual Reclamation Report. No other notice shall be required.

89-330. Criteria for Approval of Reclamation Plan and Completed Land Reclamation.

A. Minimum standards for final slopes in all excavations in soil, sand, gravel, or other unconsolidated materials.

The final slopes in all excavations in soil, sand, gravel and other unconsolidated materials shall be at such an angle as to minimize the possibility of slides and be consistent with the future use of the land and shall not be steeper than 3H:1V, unless approved by the Department.

B. Minimum safety standards for excavations.

(1) Provisions for safety to persons and to adjoining property must be provided in all excavations. If deemed necessary by the Department, other appropriate provisions may be required, including but not limited to, fences, guardrails, sloping, warning signs and other protective measures.

(2) Safety to adjoining property shall be provided by adequate setback, slope angles, or other provisions as deemed necessary by the Department. If necessary to provide safety, mine operators may be required to leave a minimum undisturbed buffer zone between the mine excavation and contiguous property line or highway right-of-way, unless other safety provisions are approved by the Department.

C. Minimum standards for the configuration of overburden and spoil banks.

In open cast mining operations, all overburden and spoil shall be left in a configuration which is in accordance with accepted conservation practices and which is suitable for the proposed subsequent use of the land. Side slopes of spoil banks, peaks, ridges, and refuse shall not be steeper than 3H:1V, unless approved by the Department.

D. Minimum standards for pools of water, streams, lakes, ponds and marshlands.

(1) In no event shall any provision of the Act be construed to allow small pools of water that are, or are likely to become noxious, odious, or foul to collect or remain on the mined land. Lakes, ponds, wetlands or marshlands shall be considered adequately reclaimed lands when approved by the Department.

(2) Suitable drainage ditches, conduits, or surface gradient shall be constructed to avoid collection of noxious, odious, or foul pools of water.

(3) Those portions of the reclamation plan involving lakes and ponds shall be approved if:

(a) A supply of water sufficient to maintain the approximate design pool elevation in accordance with the reclamation plan is available. In all cases, a sufficient water supply shall be available to maintain a minimum water depth of four (4) feet on at least fifty (50) percent of the surface area of the lake or pond unless the lake or pond is to be used for aquaculture;

(b) Side slopes no steeper than 3H:1V extending to the anticipated average water level except for excavations in rock or where other special considerations are approved by the Department;

(c) Structures impounding a lake or pond conform to standards set forth in requirements promulgated under the Dams and Reservoirs Safety Act or designed by a professional engineer;

(d) All waters shall conform to standards set forth by the South Carolina Department of Health and Environmental Control for surface waters in South Carolina. The specified standards will not be considered violated when values outside the established limits are caused by natural conditions and when no significant environmental harm would result;

(e) Waters designated for fishing lakes shall have at least twenty (20) percent of the total surface area less than six (6) feet deep, with an average minimum depth of three (3) feet;

(f) Water designated for use in water contact sports shall meet the following conditions: all areas within five feet of the lowest expected water level shall be cleared of all stumps, logs, and other debris, and there shall be no sudden dropoffs or deep holes. A three-foot deep shelf around the shore line is permissible for control of aquatic vegetation;

(g) Water designated to be used as waterfowl areas shall have a means of controlling the water level so that at least fifty (50) percent of the area can be either drained or flooded, unless otherwise approved by the Department;

(h) Water areas designated for other uses, such as for aesthetics, irrigation, stock watering, aquaculture, marshlands, or wetlands, shall be considered adequately reclaimed upon approval by the Department.

(4) Stream banks are adequately reclaimed when returned to the approximate original slope and vegetated. Such reclamation shall be done in a manner so as not to adversely affect downstream areas.

E. Minimum standards for cropland.

Slopes and the condition of the surface must be such that commonly used farm machinery can cultivate, maintain, and harvest the area safely. Conservation practices essential for controlling erosion and sediment must be established, unless waived by the Department.

F. Minimum standards for grassland.

The operator shall establish on a continuing basis the vegetative cover and soil stability appropriate to the area. Conservation practices essential for controlling both on-site and off-site erosion and siltation must be established. A minimum of seventy-five (75) percent vegetative ground cover, with no substantial bare spots, must be established and maintained into the second growing season. Where the Department finds that because of special soil conditions it is not feasible to establish a minimum of seventy-five (75) percent ground cover, it may approve a reclamation plan consistent with the original soil condition.

G. Minimum standards for woodland.

(1) The operator shall establish on a continuing basis the vegetative cover and soil stability appropriate to the area. Conservation practices essential for controlling both on-site and off-site erosion and siltation must be established.

(2) Areas reclaimed to woodland must be planted or seeded with respect to species selection, spacing, and ground preparation, according to the recommendations of the South Carolina Commission of Forestry or a registered forester.

(a) Survival meeting the recommendations of the South Carolina Commission of Forestry or a registered forester with no substantial bare spots must be achieved through one full growing season;

(b) Ground cover or other conservation practices shall be required in areas where erosion will be active until the trees or shrubs establish a ground cover from their own litter. Ground cover may be annual or perennial vegetation, or mulching. The requirement for ground cover may be omitted in sandy areas if the reclaimed area has a closed drainage system as long as temporary measures are used to prevent significant erosion and siltation within such areas.

H. Minimum standards for managed wildlife habitat.

Successful reclamation of this type requires highly specialized studies and the operator should work closely with the Department or other conservation agencies in planning and installing such a project. Approval of reclamation of this type will be considered on a case-by-case basis.

I. Minimum standards for reclamation involving a sanitary landfill or other waste disposal.

The Department will refer this type of reclamation over to the South Carolina Department of Health and Environmental Control for permitting, administration and enforcement of operational and monitoring requirements. When the Department receives notice that the South Carolina Department of Health and Environmental Control's requirements have been met, the Department will then release all or the appropriate portion of the operator's surety bond or other security, provided that the operator has established on a continuing basis the vegetative or other ground cover necessary to control or prevent erosion, the soil stability, and the water and safety conditions, appropriate to the area as required by these regulations.

J. Other reclamation.

Mined land can be reclaimed to many other uses. The Department shall encourage and work with operators desiring to reclaim land to unconventional and innovative post-mining uses of affected lands. Such reclamation may be for recreational, developmental, educational or other uses.

K. Notwithstanding any other provision in this regulation or any other applicable regulation issued pursuant to Section 48-20-210 of the Act, the criteria for completed reclamation under an approved reclamation plan, as it pertains to any surety, shall be that criteria set forth in the regulations in effect at the time of the issuance of the mining permit and approved reclamation plan or that criteria in effect at the time of approval of any modification of the mining permit or reclamation plan provided the surety has consented hereto.

89-340. Fee Schedule.

A. In accordance with Section 48-20-100 of the S. C. Mining Act (S. C. Code of Laws, 1976, as amended), the following mining and reclamation fee schedules are established:

- (1) Mining permit application fee \$600.
- (2) Mining permit conversion fee \$600. (In lieu of Permit Renewal)
- (3) Mining permit substantial modification fee \$600.
- (4) Mining permit transfer fee \$600.
- (5) Certificate of Exploration fee \$300.

B. In accordance with Section 48-20-120 of the S. C. Mining Act (S. C. Code of Laws, 1976, as amended), the following Annual Operating Fee has been established:

- (1) Mining Annual Operating Fee Per Mine \$375. (Included as part of Annual Reclamation Report)
- (2) Mining Annual Operating Fee Late Penalty \$50. per month;

89-350. Administrative Forms.

Administrative forms to be used by the Department are as follows:

- A. Form MR-200 Application for a Certificate of Exploration
- B. Form MR-300 Reclamation Plan for Exploration

- C. Form MR-400 Application for a Mining Permit
- D. Form MR-500 Reclamation Plan
- E. Form MR-600 Land Entry Agreement-Owner
- F. Form MR-700 Land Entry Agreement-Lessor/Lessee
- G. Form MR-800 Reclamation Bond Form to Post a Surety Bond
- H. Form MR-900 Reclamation Bond Form to Post a Bond for Other Than a Surety Bond
- I. Form MR-1000 Reclamation Bond Form for Assignment
- J. Form MR-1050 Reclamation Bond Form to Post an Irrevocable Letter of Credit
- K. Form MR-1100 Annual Reclamation Report
- L. Form MR-1300 Application for Modifying a Mining Permit and/or Reclamation Plan
- M. Form MR-1400 Transfer Agreement